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5 **BEFORE THE STATE OF WASHINGTON**  
6 **ENERGY FACILITY SITE EVALUATION COUNCIL**

7 In the Matter of Application No. 2004-01

APPLICATION NO. 2004-01

8 WIND RIDGE POWER PARTNERS, LLC.

OPENING STATEMENT OF  
COUNSEL FOR THE  
ENVIRONMENT

9 Wild Horse WIND POWER PROJECT

10 **I. INTRODUCTION**

11 Counsel for the Environment (CFE) is charged with representing the public and its  
12 interest in protecting the quality of the environment. *See* RCW 80.50.080. CFE's  
13 involvement in review of the Wild Horse Wind Power Project (Wild Horse) is limited to the  
14 environmental impact of the proposed project. CFE does not object to the construction of  
15 Wild Horse, so long as appropriate mitigation measures are employed by the Applicant and  
16 any future successors. CFE seeks to ensure that the public interest in protection of the  
17 environment is achieved by providing the Energy Facility Site Evaluation Council (EFSEC)  
18 with as much information regarding potential environmental impacts as possible.

19 Promotion of renewable energy sources is in the public interest, only so long as the  
20 development of those renewable sources does not adversely impact the quality of the  
21 environment. Although wind energy presents many positive environmental benefits such as  
22 reduced reliance on fossil fuels and reduction in emissions of greenhouse gases, construction  
23 of wind power plants also poses environmental impacts that must be carefully considered.

24 CFE will focus its presentation on three environmental impacts of particular concern  
25 raised by Wild Horse: (1) the effect on the shrub steep habitat within the project area and  
26 region; (2) the effect of construction and operation on sage grouse, and (3) the effect on avian

1 species, including birds and bats.<sup>1</sup> CFE commends the Applicant on its proposed mitigation  
2 measures and believes these proposals should be included as conditions of a Draft Site  
3 Certificate Agreement (SCA or Certificate) if the Council recommends approval of the  
4 project. The Applicant's commitments outlined in Washington Department of Fish and  
5 Wildlife (WDFW) Regional Habitat Program Manager Ted Clausing's February 8, 2005 letter  
6 to EFSEC Manager Allen Fiksdal are significant steps in minimizing the environmental  
7 impact of the project, if constructed. However, CFE believes some proposals, such as the  
8 Technical Advisory Committee (TAC), should be clarified in greater detail.

9 CFE's sole objective is to ensure that sufficient mitigation measures are in place, and  
10 stringent oversight is conducted, if the project is constructed. CFE seeks assurances that  
11 contingency plans are enacted to adequately address unintended consequences or unforeseen  
12 problems if the project is constructed and the need arises. Most importantly, CFE seeks  
13 assurances that projected avian mortality does not exceed current expectations and that an  
14 Altamont Pass situation does not occur in Kittitas County.<sup>2</sup> CFE believes EFSEC must fully  
15 explore the considerations outlined below and suggested conditions of a SCA before  
16 approving Wild Horse for construction.

17 **II. CONSIDERATIONS AND CERTIFICATE CONDITIONS CFE BELIEVES**  
18 **EFSEC SHOULD FULLY EXPLORE BEFORE RECOMMENDING**  
**CONSTRUCTION OF WILD HORSE**

19 **A. EFSEC should fully explore the unique importance of the shrub steppe habitat**  
20 **that will be disturbed, if the project is constructed.**

21 Shrub steppe is a Washington State Priority Habitat. It has been given this designation  
22 because of the many wildlife species that depend on it for survival. In fact, one of the  
23 dependant wildlife species is the sage grouse, which is a WDFW listed threatened species.  
24 Shrub steppe has declined in Washington nearly 60% from historic levels. Much of the

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25 <sup>1</sup> Although these areas will be CFE's primary focus, CFE reserves the right to address other  
environmental related issues throughout the hearing.

26 <sup>2</sup> Altamont Pass was an early generation wind farm in California. Poor citing of this project has resulted  
in a concerning number of annual avian kills, especially among raptor populations.

1 remaining shrub steppe is fragmented into patches too small to function properly, isolated from  
2 other shrub steppe habitats, or both. WDFW has acquired lands to the north and south of the  
3 Wild Horse project site in an effort to protect shrub steppe and provide winter range for  
4 wildlife. The land upon which Wild Horse is proposed provides a critical linkage of shrub  
5 steppe habitat to the north and south of Washington. The lands surrounding the Wild Horse  
6 project site, and the site itself, constitute the last remaining area of contiguous shrub steppe  
7 within the State of Washington. The undisturbed nature of this land has significant  
8 environmental importance and must be taken into account before recommending construction  
9 of Wild Horse.

10 **B. EFSEC must consider potential impact to the sage grouse if the project is**  
11 **constructed.**

12 As mentioned previously, the sage grouse is a WDFW listed threatened species. The  
13 sage grouse population has declined approximately 92% from historic levels. Sage grouse are  
14 highly dependent upon shrub steppe habitat for survival. The loss of shrub steppe habitat has  
15 a significant adverse impact on the viability of sage grouse. WDFW has developed a sage  
16 grouse recovery plan and designated a sage grouse recovery area. The proposed project site  
17 encroaches upon this recovery area. Sage grouse are not likely to be struck by turbine blades,  
18 however, sage grouse avoid areas occupied by tall structures. Unfortunately, little is known  
19 about how sage grouse may react to the presence of wind turbines. Active leks (a traditional  
20 mating ground for sage grouse) were not located in the project area, but sage grouse, including  
21 hens with broods, have been sighted in the project area previously, indicating reproductive  
22 populations occur in the area.

23 Currently two populations of sage grouse are present in Washington State: (1) to the  
24 north in Douglas County and (2) to the south on the Yakima training Center. The shrub  
25 steppe habitat between these two locations provides a critical linkage and the best potential for  
26 increasing the sage grouse population. Construction of Wild Horse may create a migration

1 barrier between the two sage grouse populations. EFSEC must consider the potential effect to  
2 sage grouse population before recommending construction of this project.

3 **C. The Certificate must include a detailed mitigation plan to address avian kills.**

4 Washington Audubon and other members of the Kittitas County community have  
5 raised concerns about the one year avian study conducted by the Applicant. These groups  
6 have argued that a two year study should have been conducted to gain a more comprehensive  
7 understanding of avian abundance in the Wild Horse area. The Applicant chose to rely on a  
8 one year study for its avian mortality estimates. CFE recognizes that WDFW Wind Power  
9 Guidelines allow for a one year study, and a one year study is common within the industry;  
10 however, the Wind Power Guidelines also emphasize that the purpose of pre-project  
11 assessment studies is to minimize biological impact. Since the Applicant has made the  
12 decision to rely upon the results of a one year study rather than conducting a more  
13 comprehensive investigation, the Council should hold the Applicant strictly to the mortality  
14 numbers its experts have projected as part of the SCA.

15 CFE requests that the Council require a comprehensive monitoring program as a  
16 condition of any Certificate. CFE believes the TAC commitment proposed by the Applicant  
17 must be incorporated into the SCA. However, the structure, powers, and mission for the TAC  
18 should be outlined in the SCA with greater specificity to assure adequate oversight and  
19 protection of the environment regarding habitat management and avian mortality monitoring.

20 Finally, the legislature has made it clear that EFSEC must recognize both the pressing  
21 need for increased energy facilities and the need to site those facilities in locations and under  
22 conditions that will produce minimal adverse effects on the environment and the ecology of  
23 the land and its wildlife. *See* 80.50.010. Although current studies predict minimal impact to  
24 avian species, if circumstances change, EFSEC must utilize all necessary options to fulfill its  
25 statutory mission. The SCA should specifically state that EFSEC retains continuing  
26 jurisdiction over the project, for the life of the project, and will take all necessary steps to

1 correct unanticipated escalation of avian mortality including mitigation measures that exceed  
2 WDFW Wind Power Guidelines.

3 **D. The Certificate should require strict monitoring of bat mortality related to the**  
4 **Wild Horse.**

5 CFE is concerned about the limited information regarding the effect of the turbines on  
6 bat mortality. Bats play an important roll in the ecosystem. No studies of bats were  
7 conducted at the Wild Horse site. Estimates of bat mortality are entirely calculated based on  
8 information from other wind power sites across the country. The Applicant has indicated that  
9 eco-monitoring and night vision studies are unreliable and were not a viable option for  
10 conducting pre-construction research for the abundance of bats using the proposed project  
11 area. CFE, therefore, asks that the Council impose strict oversight on the bat monitoring  
12 program to ensure that unacceptable numbers of bats are not killed.

13 **III. CONCLUSION**

14 CFE does not oppose construction of Wild Horse, so long as sufficient mitigation  
15 measures are included in the SCA. CFE asks that all mitigation measures proposed by the  
16 Applicant be included as conditions of the Certificate. Furthermore, CFE asks for the  
17 inclusion of the aforementioned conditions as part of the Certificate in an effort to ensure that  
18 if the Wild Horse is constructed the project does not cause greater environmental harm than  
19 good.

20 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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22  
23 JOHN E. LANE, WSBA # 31541  
24 Counsel For the Environment  
25 1125 Washington St. SE  
26 PO Box 40100  
Olympia, WA 98504-0100  
(360) 586-3649